

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

DR 1996-022320

01/08/2014

HONORABLE JANET E. BARTON

CLERK OF THE COURT  
A. Ocanas  
Deputy

IN RE THE MATTER OF  
DENISE J WINESTOCK

GREGORY A RIEBESEHL

AND

NIZAR N SALIBA

NIZAR N SALIBA  
511 W PUGET AVE  
PHOENIX AZ 85021

MINUTE ENTRY

On May 16, 2013 Petitioner filed an Application for Attorney's Fees in the above captioned matter. As reflected on the mailing certificate, a copy of this Application was not provided to the Court. Thus, the Court was unaware that it had been filed until contacted by Petitioner's new counsel on December 30, 2013.

On June 4, 2013, Petitioner filed a Motion for Order Declaring Homestead Abandoned. Again, a copy of this Motion was not provided to the Court and, thus, the Court had no idea it had been filed until contacted by Petitioner's new counsel on December 30, 2013.

With respect to the pleadings referenced above, the Court now rules as follows.

The Application for Attorney's Fees was submitted pursuant to the Court's August 20, 2010 Minute Entry, in which the Court ordered "that counsel for Mother file an application for Attorney's fees listing the reasons why attorney's fees would be warranted under A.R.S. 25-324 and a China Doll Affidavit." Admittedly, no deadline was set forth in the August 20, 2010

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Minute Entry for filing the application and affidavit. However, the Court can say, with confidence, that it expected the pleadings to be filed sooner than 2 years and 9 months later.<sup>1</sup>

In the exercise of its discretion, the Court finds that Petitioner's Application for Attorney's Fees is untimely. *See, e.g.*, Rule 54(g), Ariz.R.Civ.P. (application for attorneys' fees must be filed within 20 days of the clerk mailing the decision on the merits unless otherwise extended by the Court). Therefore,

**IT IS ORDERED** denying Petitioner's Application for Attorney's Fees.

Petitioner's family court case has been closed for over three years now as the youngest minor child turned 18 on August 7, 2010. On August 2, 2010, the Court granted judgment in favor of Petitioner and against Respondent for all monies Respondent had been ordered to but had not paid in this matter. The Court also ordered a Child Support Arrest Warrant for Respondent in the amount of the owed child support. By taking these actions, the Court effectively terminated the family court case.

Petitioner appears to be seeking the declaration of homestead abandonment so she can execute against the judgment she was granted three years ago in her family court case. To the extent Petitioner requires a Court order for the relief she is seeking, Petitioner needs to pursue such relief in a civil debt collection matter and not in this case. Therefore,

**IT IS ORDERED** denying Petitioner's Motion to Order Declaring Homestead Abandoned, without prejudice to refile said Motion in the proper department of this Court.

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.

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<sup>1</sup> No explanation whatsoever is provided in the Application for Attorney's fees for this 2 year and 9 month delay. Nor does the Court's file reflect that an extension for filing an Application was ever sought by Petitioner.